



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 23 2011

Mark Schneider, Esquire
Service Employees International Union
1800 Massachusetts Avenue, NW
Washington, DC 20036

RE: MUR 6499
Service Employees International Union
Committee on Political Education (SEIU
COPE) and Gerald Hudson, in his official
capacity as treasurer

Dear Mr. Schneider:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting your clients, Service Employees International Union Committee on Political Education and Gerald Hudson, in his official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On March 22, 2011, your clients were notified that they were being referred to the Commission's Office of General Counsel for possible enforcement action under 2 U.S.C. § 437g. On September 15, 2011, the Commission found reason to believe that your clients violated 2 U.S.C. § 434(g), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that your clients have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that your clients wish the investigation to be made public.

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We look forward to your response.

On behalf of the Commission,



Cynthia L. Bauerly
Chair

Enclosures
Factual and Legal Analysis
Conciliation Agreement

cc: Michael Trister, Esq.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Service Employees International Union Committee MUR: 6499
On Political Education (SEIU COPE) and
Gerald Hudson, in his official capacity as treasurer

I. BACKGROUND

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Reports Analysis Division ("RAD") referred SEIU COPE and Gerald Hudson, in his official capacity as treasurer, (the "Committee" or "Respondents") to the Office of General Counsel for failing to file four 24-Hour Reports of independent expenditures totaling \$119,624.44, disclosed on Schedule E of the 2010 September Monthly Report. In its response to the notice of referral, the Committee acknowledged the errors, asserted that its failure to file the reports was inadvertent, and indicated that it had taken remedial measures to prevent a recurrence of the errors. Accordingly, the Commission found reason to believe that SEIU COPE and Gerald Hudson, in his official capacity as treasurer, violated 2 U.S.C. § 434(g).

II. FACTUAL AND LEGAL ANALYSIS

An independent expenditure is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate, and is not coordinated with a candidate, candidate's committee, party committee or their agents. 2 U.S.C. § 431(17). A political committee that makes or contracts to make independent expenditures aggregating \$1,000 or more with respect to a given election after the 20th day, but more than 24 hours before the date of an election, shall file a report describing

1 the expenditures within 24 hours. 2 U.S.C. § 434(g)(1)(A); 11 C.F.R. § 104.4(c). The
2 reports, known as 24-Hour Notices, must be filed within 24 hours "following the date on
3 which a communication that constitutes an independent expenditure is publicly
4 distributed or otherwise publicly disseminated." 11 C.F.R. § 104.4(c). The Committee
5 shall file additional reports within 24 hours after each time it makes or contracts to make
6 independent expenditures aggregating an additional \$1,000. 2 U.S.C. § 434(g)(1)(B).

7 On September 20, 2010, the Committee filed its 2010 September Monthly Report,
8 which included a Schedule E disclosing four independent expenditures, totaling
9 \$119,624.44, in opposition to a federal candidate in the Florida primary election held on
10 August 24, 2010. The expenditures, each in the amount of \$29,906.11 paid to 4900
11 Group LLC, were made on August 11, 2010 for mailings distributed on
12 August 11, 13, 16, and 18, 2010. However, the Committee failed to file the four required
13 24-Hour Notices for these independent expenditures within 24 hours of the date of the
14 distribution of the mailings. See RAD Referral, Attachment 2. On October 21, 2010, the
15 Committee amended the 2010 September Monthly Report, the amendment did not
16 include any changes to the independent expenditure transactions disclosed on the original
17 report.

18 On November 30, 2010, RAD sent a Request for Additional Information
19 ("RFAI") to the Committee concerning the Amended 2010 September Monthly Report in
20 which it notified the Committee that the report's Schedule E listed "last minute"
21 independent expenditures that were not disclosed on 24-Hour Notices of Independent
22 Expenditures, identified the specific expenditures, and sought a response. On

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1 December 28, 2010, the Committee filed a Miscellaneous Electronic Submission (FEC
2 Form 99) in response to the RFAI, in which it acknowledged that it had failed to file 24-
3 Hour Notices for four independent expenditures disclosed on its 2010 September
4 Monthly Report. The FEC Form 99 stated that due to a communication failure, the staff
5 preparing the reports was unaware of these expenditures until after the primary election
6 and thus no 24-Hour Notices were filed. It further stated that once the error was detected,
7 the Committee implemented new procedures to prevent a recurrence of the problem. On
8 February 2, 2011, RAD notified the Committee by telephone that the missing notices
9 were referable, and on March 16, 2011, RAD referred its findings to OGC.

10 On March 22, 2011, the Commission notified the Committee of the referral in
11 accordance with the Commission's policy regarding notification in non-complaint
12 generated matters. 74 Fed. Reg. 38617 (August 4, 2009). In its response to the
13 notification, the Committee acknowledged its failure to file the 24-Hour notices, and
14 reiterated that the omission was inadvertent, resulting from a communication failure
15 between the staff who published the ads and the staff who prepared the reports. The
16 Committee stated that it became aware of the omission when it prepared its 2010
17 September Monthly Report and that it properly reported the expenditures on that report.
18 In addition, it explained that it has implemented a record-keeping system to track
19 independent expenditures to prevent a recurrence of the reporting problem. Finally, the
20 Committee requested that the Commission take into account the Committee's "strong
21 record of compliance" with the 24- and 48-hour reporting rules, noting that the four
22 omitted reports reflect only 2% of the \$10.5 million in total independent expenditures
23 spent during the 2010 election cycle.

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1 The Committee's failure to file the four 24-Hour Notices of Independent
2 Expenditures totaling \$119,624.44 is a violation of the Act's reporting requirements. The
3 Committee should have filed the Notices within 24 hours of the date it "publicly
4 distributed" the mailers. 11 C.F.R. § 104.4(c). Because the Committee failed to file the
5 notices with the Commission, there is reason to believe that SEIU COPE and Gerald
6 Hudson, in his official capacity as treasurer, violated 2 U.S.C. § 434(g).

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